

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

SCOTT KINGSTON,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION, a New York corporation,

Defendant.

Case No. 2:19-cv-01488-MJP

**DECLARATION OF DANIEL F.
JOHNSON IN SUPPORT OF
PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES**

I, DANIEL F. JOHNSON, state as follows, based on personal knowledge:

1. I am a Shareholder/Founder of the law firm Breskin, Johnson & Townsend. I make the following statements based on my personal knowledge.

2. I have been a member of the Washington State Bar Association since 1998 and am also licensed to practice in Washington. I am admitted to practice in the US. District Courts for the Western and Eastern Districts of Washington, the U.S. Court of Appeals for the Ninth and Third Circuits, and the United States Supreme Court.

3. I graduated from Boalt Hall School of Law, University of California at Berkeley in 1997 and Evergreen State College in 1990. I served as a law clerk to U.S. District Judges Robert S. Lasnik and Carolyn R. Dimmick from 1997 to 1999.

4. I have been named a Washington SuperLawyer every year since 2010 by *Washington Law & Politics Magazine*. I am a member of the Washington Employment Lawyers Association Board of Directors and member of that group's Amicus Committee, for which I help write briefs in Washington courts on important issues of employment law. I have also served on and chaired bar association committees and am an active member of the KCBA Appellate

1 Section.

2 5. I have been practicing in employment law in Seattle for more than 20 years. I
3 have handled hundreds of discrimination and retaliation matters in Washington, including
4 individual, multi-plaintiff, and class cases. I have tried three individual employment cases in
5 King County Superior Court and two in federal court, and I have tried two class actions and one
6 multi-plaintiff case in King County Superior Court as well.

7 6. Through this experience, and in other court-approved fee procedures such as class
8 action settlements, I have become familiar with the rates charged by attorneys in the plaintiffs'
9 bar. I have worked and consulted with many other plaintiffs' attorneys, which has contributed to
10 my familiarity with the usual and customary fees for experienced attorneys in the Seattle area. I
11 have also recently observed rates of defense lawyers with whom I have worked or discussed
12 these matters.

13 7. My partners and I are responsible for setting the rates that we charge clients and
14 seek from courts under fee-shifting statutes. We regularly survey the rates charged by firms
15 handling cases similar to ours. As a result, I am generally familiar with the market rates of
16 Washington attorneys who practice in the areas of employment and civil rights throughout the
17 state as well as those who prosecute class actions.

18 8. My hourly rate is currently \$505-550 depending on the nature of the case. The
19 hourly rates of other attorneys at my firm currently range from \$290 (for a 2015 graduate) to
20 \$650 (for a partner with more than 35 years of litigation experience). The hourly rate for our
21 senior paralegals is currently \$175-195. Our current and historic rates have been approved by
22 state and federal courts in Washington, including on contested fee motions.

23 9. Based on my experience setting the rate schedule at my firm, surveying other
24 firms and attorneys, and petitioning for fee awards, I believe the rates my firm charges are on
25 par with the market rates of Washington attorneys who practice in the areas of employment law,
26 civil rights, and class actions.

1 10. The opinions I set forth below are informed by my personal experience with the
2 work and reputation of Mr. Marshall and my knowledge regarding the hourly rates charged by
3 and awarded to attorneys and staff representing plaintiffs in the state and federal courts of
4 Washington.

5 11. I have known Mr. Marshall in professional capacity for more than a decade and
6 have co-counseled with him on an employment class action pending in this district since April
7 2012. That case has been extensively litigated at every level, including briefing and argument
8 before the Ninth Circuit Court of Appeals and the Washington Supreme Court. I also work with
9 Mr. Marshall on the Amicus Committee of the Washington Employment Lawyers Association.
10 Thus, I am very familiar with his experience and track record. Mr. Marshall is extraordinarily
11 knowledgeable, bright, creative, experienced, careful, and hardworking. His rate of \$525 per
12 hour is entirely reasonable given his expertise, qualifications, education, and background. If
13 anything, I believe his rate may be below market value for his work.

14 13. The rates of the other attorneys, paralegals, and litigation assistants in Mr.
15 Marshall's firm who worked on this case are well within the market for attorneys practicing
16 employment law in Washington. This includes the rates charged for Britt Glass (a 2014 law
17 school graduate billing at \$325/hour), Amanda Steiner (a 1997 law school graduate billing at
18 \$500/hour), Elizabeth Adams (a 2012 law school graduate billing at \$350/hour), Jennifer
19 Boschen (a paralegal with more than 20 years of experience billing at \$175/hour), and Jodi Nuss
20 (a paralegal with more than 11 years of experience billing at \$175/hour).

21 14. I have reviewed the rates of Matt Lee (a 2006 graduate and firm partner who bills
22 at a rate of \$525/hour), Jeremy Williams (a 2014 graduate who bills at a rate of \$375/hour),
23 Sarah Spangenburg (a 2019 graduate who bills at a rate of \$275/hour), Jeff Steen (a paralegal
24 with more than 20 years of experience who bills at a rate of \$175/hour), and Jessica Giglio (a
25 paralegal with more than 20 years of experience who bills at a rate of \$175/hour). I think these
26 rates are within the range that attorneys and paralegals bill in this market for the type of work
27 required to prosecute this case.

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